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09/352,227 07/13/99 APOSTOLOPOULOS

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EXAMINER

PM82/0524

CHIN SHUE, A

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

05/24/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/352227

Applicant(s)

Apostolopoulos

Examiner

A. Chin Shue

Group Art Unit

3634

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1, 2, 4, 5, 7, 9, 10, 15 - 27 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2, 4, 5, 7, 9, 10, 15 - 27 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3634

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitations of claims 2 and 17 are improper as they are merely functional and do not further limit any previously positively recited element. In claim 18, is the compression clamp a different element from the beam means? Also is the connecting rod a different element from the force applying means? The claimed limitations suggest that they are, which is incorrect. In claim 20, the preamble states that only the platform is being claimed, while positive limitations to the bridge suggest that a combination of the platform and the bridge is being claimed. Correction is required.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the

Art Unit: 3634

"right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,2,4,5,7,9,10, and 15-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,921,346. Although the conflicting claims are not identical, they are not patentably distinct from each other because the mere substitution of different names for the same elements, note, "assembly portions", as set forth in claim 1, and beam means, as set forth in claim 15, for "members" in claim 1, of pat. 5,921,346 do not obviate obviousness.

Art Unit: 3634

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21 and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Potin.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturgis in view of either Proulx, Brumfield, or Hanses. Sturgis shows the claimed platform with the exception of the corrugated panels. Brumfield, Proulx, and Hanses all show corrugated panels. It would have been obvious to

Art Unit: 3634

one of ordinary skill in the art at the time the invention was made to provide corrugated panels for the panels 35 of sturgis to maximize the strength to weight ratio of platform and to provide same with receptacles.

Claims 20,24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of either Brumfield or Hanses.

Margaritis shows the claimed platform with the exception of the corrugated panels. Brumfield and Hanses show corrugated panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide corrugated panels to Margaritis for his load bearing floor (column 4, line 36) to enable a maximized strength to weight ratio support with receptacles.

Claims 20,23,24,26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of Proulx. Margaritis shows the claimed platform with the exception of the corrugated panels. Proulx shows corrugated panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide corrugated panels to

Art Unit: 3634

Margaritis for his load bearing floor (column 4, line 36) to enable a maximized strength to weight ratio support with receptacles.

Claims 20,22, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of Potin. Margaritis shows the claimed platform with the exception of the flooring sections. Potin shows flooring sections 13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide flooring sections to Margaritis for his load bearing floor (column 4, line 36) to facilitate disassembly.

Claims 20,23,26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margaritis in view of sturgis. Margaritis shows the claimed platform with the exception of the flooring sections. Sturgis shows flooring sections 35. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide flooring sections to Margaritis for his load bearing floor (column 4, line 36) to facilitate disassembly.

Art Unit: 3634

Any inquiry concerning this communication should be directed to Alvin Chin-Shue at telephone number (703) 308-2475. A message can be recorded at the above number at anytime.

The fax phone number for this group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number (703) 308-2168.

A handwritten signature in black ink, appearing to read 'Alvin Chin-Shue', with a long horizontal flourish extending to the right.

Alvin Chin-Shue

Primary Examiner

Art Unit 3634